THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 18987 OF 2006

DATED: 15.09.2006

Between:

Kothapalli Subramanya Sastry S/o venkatarama Sastry,
R/o Seepudi village, Gudivada Mandal, Krishna District
and others.

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PETITIONERS

And:

Government of Andhra Pradesh,
represented by its Secretary,
Revenue Department (Land Acquisition),
Hyderabad and others.

...**RESPONDENTS**

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ORAL ORDER:

Petitioners' lands were proposed for acquisition by issuance of the draft notification under Section 4(1) of the Land Acquisition Act, 1894, (for short "the Act") on 03.06.2003, invoking the urgency clause under Section 17(4) of the Act and dispensing with the enquiry under Section 5-A of the Act. Petitioners assailed invocation of the urgency clause in W.P.No.11989 of 2006 mechanically. By the judgment, dated 16.06.2006, this Court declared the invocation of the urgency clause and dispensing with the salutary process of enquiry under section 5-A of the Act as irrational and directed the respondents to conduct an enquiry under Section 5-A of the Act and that the petitioners be not dispossessed pending communication of the decision to the petitioners consequent on the enquiry under Section 5-A of the Act. The petitioners were issued a notice calling upon them to submit their objections and informing them that the enquiry under Section 5-A of the Act will be conducted on 25.07.2006 at 11.00 A.M., at the third respondent's office. The petitioners thereupon got issued a legal notice, dated 21.07.2006, to respondents 2 to 4 herein seeking a litany of information, much of which would not be relevant to the objections to be urged by the petitioners in an enquiry under Section 5-A of the Act, including information as to

whether a large chunk of an extent of Acs.15.00 of land is available in the village Kusupudi, which is more suitable for house sites. There was no response to the legal notice dated 21.07.2006. While so, by the impugned proceedings dated 28.08.2006, the third respondent informed the petitioners that as none of them were residing in the village, notices (inviting objections under Section 5-A of the Act) were affixed on the doors of their joint houses located in the village and on the land proposed for acquisition and that the fourth respondent along with the Panchayat Secretary of the village, had conducted a panchanama. The impugned proceedings of the third respondent also record that an enquiry under Section 5-A of the Act was conducted on 19.08.2006 at 11.00 A.M, that none of the petitioners or other pattadars had attended the enquiry nor raised any objections and therefore, the third respondent proceeded on the basis that there were no objections and had decided to submit a draft declaration under Section 6 of the Act for approval of the Collector, Krishna District.

Petitioners are aggrieved by these proceedings on a plurality of grounds. It is contended by Sri Satyanarayana Prasad, learned senior counsel appearing for the petitioners, that the third respondent ought to have taken note of the petitioners' earlier writ petition and the averments therein as objections under Section 5-A of the Act. This plea does not commend acceptance by this Court. The writ petition filed in this Court need not be considered by the officials under the Land Acquisition Act as objections pursuant to a notice under Section 5-A of the Act. It is also contended that the petitioners were always resident in the village and that their mother is also residing in the village and they have a joint family house. This contention also involves a disputed

question of fact as the impugned proceedings of the third respondent dated 28.08.2006 record that the fourth respondent had conducted panchanama with regard to the petitioners' absence in the village.

On behalf of the petitioners, it is also contended that the petitioners have a grievance that the third respondent is known to be recalcitrant to conduct a fair enquiry under Section 5-A of the Act.

Responding to the averments in the writ petition and at the stage of admission, the learned Government Pleader for Land Acquisition states that there would be no objection for the third respondent to conduct an enquiry under Section 5-A of the Act afresh, provided the petitioners lodge their objections and do not further protract the process of enquiry under Section5-A of the Act.

In the aforesaid circumstances, the writ petition is disposed of and the decision of the third respondent contained in his proceedings Rc.No.499/2006 is quashed. The petitioners may, if they so desire, send their written objections to the acquisition proposals by registered post acknowledgement due so as to reach the third respondent within 15 days from today. On receipt of such objections, if any, presented by the petitioners, the third respondent shall consider the same and shall deal with each one of them and send up his recommendations to the District Collector as required under Section 5-A of the Act. The decision of the District Collector under Section 5-A(2) of the Act shall be communicated to the petitioners by registered post acknowledgement due. Till the communication of the decision, if any, under Section 5-A(2) of the Act by the District Collector

concerned, the petitioners shall not be dispossessed. There shall be no order as to costs.

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15.09.2006

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